

Scholes, Anthony

From: rbc@gsecology.co.uk
Sent: 06 August 2025 11:25
To: Scholes, Anthony
Cc: Hanson, Sarah
Subject: RE: PL/25/0102 - 1029 Oxford Road, Reading

Warning!

**For the attention of
RBC, BFfC Staff and Councillors**

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Hi All,

I think that the TPO tree needs to be included in the baseline. This is because the Environment Act (in relation to BNG) reads:

“Pre-development biodiversity value

5(1) In relation to any development for which planning permission is granted, the pre-development biodiversity value of the onsite habitat is the biodiversity value of the onsite habitat on the relevant date.

(2) The relevant date is—

(a) in a case in which planning permission is granted on application, the date of the application, and

(b) in any other case, the date on which the planning permission is granted.

(3) But the person submitting the biodiversity gain plan for approval and the planning authority may agree that the relevant date is to be a date earlier than that specified in sub-paragraph (2)(a) or (b) (but not a date which is before the day on which this Schedule comes into force in relation to the development).

(4) This paragraph is subject to paragraphs 6 and 7.

6 If—

(a) a person carries on activities on land on or after 30 January 2020 otherwise than in accordance with—

(i) planning permission, or

(ii) any other permission of a kind specified by the Secretary of State by regulations, and

(b) as a result of the activities the biodiversity value of the onsite habitat referred to in paragraph 5(1) is lower on the relevant date than it would otherwise have been, the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities.

7 Where planning permission is granted in respect of land which is registered in the biodiversity gain site register under section 100 of the Environment Act 2021, the pre-development biodiversity value of the land is the total of—

(a) the biodiversity value of the onsite habitat on the relevant date, and

(b) to the extent that it is not included within that value, the biodiversity value of the habitat enhancement which is, on that date, recorded in the register as habitat enhancement to be achieved on the land.”

i.e. because the tree would only be felled if PP were granted and wouldn't be felled in accordance with “any other permission of a kind specified by the Secretary of State by regulations”.

Possibly if a separate application were to be made, and approved, under the TPO regulations then it could be excluded from the baseline as it would have been felled under a “permission of a kind specified by the Secretary of State by regulations”. However presumably Sarah would not approve an application to fell the tree if it were not for the development? If this not the case, i.e. Sarah would approve the felling of the tree regardless, the applicant could make a separate application to fell the tree and once approved it could be excluded from the baseline.

Thanks,